



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

June 17, 2013

GHAN

Memorandum for: Deputy Commissioner, Trials

Re: **Detective Jorge Chico**  
Tax Registry No. 903094  
49 Precinct Detective Squad  
Disciplinary Case No. 2011-4539

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on January 2, 2013 and was charged with the following:


**DISCIPLINARY CASE NO. 2011-4539**

1. Said Detective Jorge Chico, 49<sup>th</sup> Precinct Detective Squad, on or about April 14, 2011, failed to properly safeguard his off-duty firearm in that he left said firearm on his desk at the 49<sup>th</sup> Precinct Detective Squad unsecured and unattended.

**P.G. 204-08, Page 2, Paragraph 7 FIREARMS / GENERAL REGULATIONS**

In a Memorandum dated April 22, 2013, Assistant Deputy Commissioner Claudia Daniels-DePeyster found Detective Jorge Chico Guilty of Specification No. 1, in Disciplinary Case No. 2011-4539. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

Detective Chico's misconduct in this instant matter warrants the forfeiture of twenty (20) vacation days, as a disciplinary penalty.

  
Raymond W. Kelly  
Police Commissioner



POLICE DEPARTMENT

April 22, 2013

MEMORANDUM FOR: Police Commissioner

Re: Detective Jorge Chico  
Tax Registry No. 903094  
49 Precinct Detective Squad  
Disciplinary Case No. 2011 4539

---

The above-named member of the Department appeared before me on January 2, 2013, charged with the following:

1. Detective Jorge Chico, 49<sup>th</sup> Precinct Detective Squad, on or about April 14, 2011, failed to properly safeguard his off-duty firearm in that he left said firearm on his desk at the 49<sup>th</sup> Precinct Detective Squad unsecured and unattended.

P.G. 204 08, Page 2, Paragraph 7 FIREARMS /GENERAL REGULATIONS

The Department was represented by Daniel Maurer, Esq., Department Advocate's Office, and Respondent was represented by James Moschella, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 19-year member of the Department, is currently assigned to the 49 Precinct Detective Squad. Respondent's desk is located in the squad room, a locked office to which only detectives or supervisors who work in the squad have access. Respondent explained that while he was doing paperwork at his desk on April 14, 2011, he "felt uncomfortable for the moment" and removed his 38-caliber Smith & Wesson off-duty weapon inside his ankle holster and placed it on top of his desk. At around midnight, Respondent's partner, Detective Andrew Hernandez, received a telephone call about a wanted felon in the vicinity of Jacobi Hospital. Respondent and Hernandez proceeded to rush out of the office to apprehend the felon. Respondent left the squad room with his Glock nine-millimeter service weapon, leaving behind his off-duty firearm on his desk. Respondent admitted that leaving the firearm in the holster on the desk was not an approved method of storing a firearm.

Police Officer Angel Rosario and Detective Edgar Cordero were present in the squad room after Respondent left his gun on his desk. There were no prisoners, civilians, or unauthorized individuals present in the squad room at the time. When Respondent returned after approximately 50 minutes, he noticed that his firearm was no longer on the desk. Respondent immediately asked Cordero and Rosario if they knew where his off-duty firearm was or if they secured it for him. A short time later, when he called to make a notification to the duty captain, he learned that his firearm had been removed by the Integrity Control Officer, Lieutenant Williams. Respondent retrieved the firearm from Williams the next day. At no point was Respondent's duty status changed as a result of the incident. Respondent explained that he left the gun on his desk

inadvertently. He has no prior history of failing to properly safeguard his firearm, and has not done it since. He has never before been the subject of any formal discipline.

During cross-examination, Respondent testified that his firearm was fully loaded and did not have a trigger lock. Rosario and Cordero were working their own cases while they were in the squad room, and Respondent did not inform them that he had left his loaded firearm on his desk. Respondent conceded that at times people arrested were brought into the squad room for questioning or processing.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on August 30, 1993. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pleaded Guilty to failure to properly safeguard his off-duty firearm. Respondent admitted that he removed his off duty firearm which was in his ankle holster on his ankle and placed his holster and firearm on his desk as he did paperwork in the 49 Precinct Detective Squad. While working, he quickly left the squad room upon receiving word from his partner that a felon his partner had been looking for was currently at a local hospital. Respondent testified that in that moment, he inadvertently left his firearm and ankle holster on his desk. He returned to the command within 50 minutes (as evidenced by his signing in and out of the command log on the incident date) and learned when he made inquiries about his firearm that it had been



removed and secured at the borough office by the ICO who happened to be conducting a check of the squad room at that time.

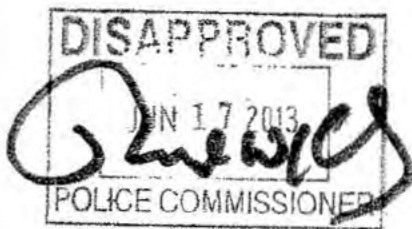
Respondent readily admits to his misconduct in this instance. The Assistant Department Advocate asked for a penalty of the forfeiture of 20 vacation days alleging strict liability in this instance with respect to failure to safeguard the weapon.

Respondent argued that the penalty recommendation of the loss of four weeks pay was excessive given his length of time on the job and otherwise discipline-free record.

Respondent has served the Department for 19 years and three months and never received any formal discipline before this point. In addition, Respondent has worked in the 49 Precinct without incident for 13-and-a-half years prior to this incident. It is also noted that Respondent left his firearm for less than an hour in the squad room, a locked office where only detectives and supervisors have access.

Given Respondent's otherwise good record with the Department and his admission of Guilt in this instance, the Court recommends that a penalty of the forfeiture of ten vacation days will serve to resolve the charge pending against him.

Respectfully submitted,



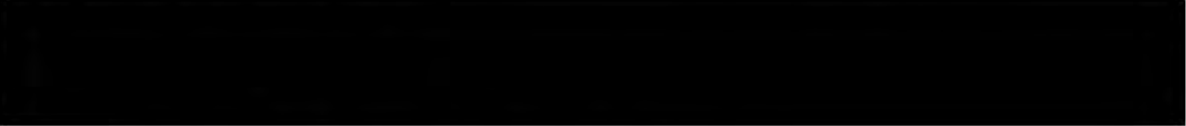
A handwritten signature in cursive script, appearing to read "Claudia Daniels-DePeyster".

Claudia Daniels-DePeyster  
Assistant Deputy Commissioner Trials

POLICE DEPARTMENT  
CITY OF NEW YORK


From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
DETECTIVE JORGE CHICO  
TAX REGISTRY NO. 903094  
DISCIPLINARY CASE NO. 2011-4539

In 2011, Respondent received an overall rating of 4.5 “Above Highly Competent” on his annual performance evaluation. In 2010, he received a rating of 4.0 “Highly Competent.” In 2009, he received a rating of 4.5 “Above Highly Competent.” Respondent has received four Excellent Police Duty Medals, and one Meritorious Police Duty Medal in his career to date.



Respondent has no prior formal disciplinary record.

For your consideration.

  
Claudia Daniels DePeyster  
Assistant Deputy Commissioner – Trials